

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

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TOWN OF ARLINGTON,  
Plaintiff.

v.

ITRON, INC. and  
ELSTER AMCO WATER, LLC, as  
successor in interest to  
ELSTER AMCO WATER, INC.,

CIVIL ACTION NO.: 1-21-CV-11657-AK

Defendants.

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**ELSTER AMCO WATER, LLC'S ASSENTED-TO MOTION FOR AN EXTENSION TO  
FILE ITS RESPONSIVE PLEADING TO THE COMPLAINT**

Defendant Elster AMCO Water, LLC as successor in interest to Elster AMCO Water, Inc. ("Elster") hereby moves to extend the deadline to respond to Plaintiff Town of Arlington's (the "Town") Complaint currently due on November 9, 2021, by thirty (30) days, or up to and including, December 9, 2021. In support of this Motion, Elster states as follows:

1. The Town filed its Complaint in the Middlesex County Superior Court on or about July 8, 2021.
2. Elster was served on September 22, 2021.
3. The Town granted Elster an extension to respond to the Complaint on October 9, 2021.
4. Defendant Itron, Inc. removed the case to this Court by filing a Notice of Removal on October 12, 2021. [ECF No. 1]
5. This Court granted Elster's assented-to Motion for Extension of Time to file its responsive pleading to the Complaint on October 18, 2021. [ECF Nos. 10, 11].

6. Elster has represented to the Town that it did not manufacture the products (200W Series Water Endpoints) that are at issue in the Complaint and form the basis of the Town's claims against Elster.

7. Accordingly, Elster has requested that the Town voluntarily dismiss it, without prejudice, from this action.

8. The Town has indicated that it is investigating the issue.

9. Elster has indicated that, in the event the Town does not voluntarily dismiss it from this action, it will prepare and file a motion to dismiss, along with all other appropriate requests for relief.

10. In order to avoid the cost and delay attendant to the filing of a motion to dismiss, Elster respectfully requests a thirty (30) day extension.

11. Elster states that Plaintiff assented to the request for a thirty-day extension of its responsive pleading deadline, by and through its counsel.

12. This request is made in good faith and is not interposed for the purpose of delay.

WHEREFORE, Elster respectfully requests that this Court grant its Motion and extend the November 9, 2021 deadline to file their response to Plaintiffs' Complaint by thirty (30) days or to December 9, 2021.

[SIGNATURES ON FOLLOWING PAGE]

Respectfully submitted,

Elster AMCO Water, LLC as Successor in Interest  
to Elster AMCO Water, Inc.

By its attorneys,

/s/ Melanie L. Todman

Melanie L. Todman (BBO #688520)

[melanie.todman@nelsonmullins.com](mailto:melanie.todman@nelsonmullins.com)

Lyndsey A. Stults (BBO #687958)

[lyndsey.stults@nelsonmullins.com](mailto:lyndsey.stults@nelsonmullins.com)

Patrick T. Uiterwyk (BBO #665836)

[patrick.uiteryk@nelsonmullins.com](mailto:patrick.uiteryk@nelsonmullins.com)

Nelson Mullins Riley & Scarborough LLP

One Financial Center, Suite 3500

Boston, MA 02111

(617) 217-4700

(617) 217-4710 (fax)

Dated: November 4, 2021

**LOCAL RULE 7.1 CERTIFICATION**

I, Lyndsey A. Stults, hereby certify that I contacted Plaintiff's counsel by electronic mail on November 4, 2021 in an attempt to obtain Plaintiff's assent to this motion. By electronic mail on November 4, 2021 Plaintiff's counsel assented to this motion.

Dated: November 4, 2021

/s/ Lyndsey A. Stults  
Lyndsey A. Stults

**CERTIFICATE OF SERVICE**

I, Melanie L. Todman, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

Dated: November 4, 2021

/s/ Melanie L. Todman  
Melanie L. Todman